

**UNITED STATES DISTRICT COURT
For the WESTERN DISTRICT OF NORTH CAROLINA**

**MISCELLANEOUS NO.
3:22-mc-00046**

IN RE: ORDER SETTING CONDITIONS OF RELEASE


ORDER

THIS MATTER is before the Court upon its own motion.

The United States District Court for the Western District of North Carolina hereby adopts a standard Order Setting Conditions of Release to be used in all cases commencing on April 1, 2022. This standing Order is attached.

The Clerk is directed to serve a copy of this Order with the U.S. Marshal; the U.S. Attorney the Chief Federal Defender; and the Chief U.S. Probation Officer for the Western District of North Carolina.

IT IS, THEREFORE, ORDERED on behalf of the court this 11th day of March 2022.



Martin Reidinger, Chief
U.S. District Court Judge

FILED
Asheville, NC

MAR 11 2022

Clerk, US District Court
Western District of NC

UNITED STATES DISTRICT COURT
Western District of North Carolina

UNITED STATES OF AMERICA

Case No.

Defendant

ORDER SETTING CONDITIONS OF RELEASE

It is ordered that the defendant's release is subject to these conditions:

- (1) The defendant shall not commit any federal, state or local crime.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 34 U.S.C. § 40702.
- (3) The defendant shall live at a place approved by the probation officer. The probation officer shall be notified in advance of any change in living arrangements (such as location and the people with whom the defendant lives) or phone number. If advance notification is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED BOND

It is further ordered that the defendant be released on condition that:

- ☐ (4) The defendant promises to appear in court as required and, if convicted, surrender to serve any sentence imposed.
- ☐ (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of _____ in the event of a failure to appear as required or surrender to serve any sentence imposed.

ADDITIONAL CONDITIONS OF RELEASE

Pursuant to 18 U.S.C. § 3142(c)(1)(B), the Court finds the following are the least restrictive condition(s) necessary to reasonably assure the appearance of the person as required and the safety of any other person and the community.

It is further ordered that the defendant's release is subject to the conditions marked below:

☐ (6) The defendant is placed in the custody of _____, who resides at _____, phone number _____, who agrees (a) to supervise the defendant in accordance with all of the conditions of release, (b) to use every effort to assure the defendant's appearance at all scheduled court proceedings, and (c) to notify the Court immediately if the defendant violates any condition of release.

☐ The defendant is placed in the custody of this custodian for all purposes.

☐ The defendant is placed in the custody of this custodian for transportation purposes only.

By signing below, the third-party custodian acknowledges that failure to comply may subject him/her to adverse consequences.

_____ Signature of Third-Party Custodian	_____ Date
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☐ (7) The defendant shall:

☐ (a) report to the probation office in a manner and frequency as directed by the Court or probation officer.

☐ (b) work full time (at least 30 hours per week) at lawful employment, actively seek such gainful employment or be enrolled in a full time educational or vocational program unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment or education.

☐ (c) surrender any passport to the Office of Probation and Pretrial Services.

☐ (d) obtain no passport or other international travel document.

☐ (e) abide by the following restrictions on personal association, residence, or travel:

The defendant shall not leave the federal judicial district where he/she is authorized to reside without first getting permission from the Court or the probation officer. Further, the defendant shall not communicate or interact with any person he/she knows is engaged in criminal activity.

☐ The defendant shall not communicate or interact with any person he/she knows to be convicted of a felony unless granted permission to do so by the probation officer.

☐ In addition to the Western District of North Carolina, the defendant may travel or reside in the following districts: _____

- ☐ (f) avoid all contact, directly or indirectly, with any person who is or may become a victim or witness in the investigation or prosecution, including but not limited to: co-defendants, _____.
- ☐ (g) seek and obtain reasonable medical treatment as follows: _____, including taking all medications as prescribed by a licensed health care practitioner.
- ☐ (h) participate in a mental health evaluation and treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise the defendant's participation in the program (including, but not limited to provider, location, modality, duration, and intensity). The defendant shall take all mental health medications as prescribed by a licensed health care practitioner.
- ☐ (i) maintain residence at a halfway house or community corrections center, as the probation officer considers necessary.
- ☐ (j) not possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- ☐ (k) refrain from ☐ excessive ☐ any use of alcohol.
- ☐ (l) not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner.
- ☐ (m) participate in a program of testing for prohibited substance abuse (if deemed advisable by the probation officer). The defendant shall not obstruct or attempt to obstruct or tamper, in any fashion, with the efficiency and accuracy of the testing.
 - ☐ One positive drug screen requires that the defendant be returned to court.
- ☐ (n) participate in a substance abuse treatment program (if deemed advisable by the probation officer) and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity).
- ☐ (o) attend and complete the substance abuse or treatment program located at _____. The defendant is to be released no later than _____ AM/PM on _____ (date). Upon his/her release from custody, the defendant shall be transported by the most direct means and way possible to this program. Upon successful completion of the program, the defendant shall:

- ☐ remain out of custody and report to the United States Probation Office as soon as possible so that further proceedings can be scheduled to determine if the defendant will be allowed to continue to be released pending further proceedings.
- ☐ be immediately returned to custody at a location as directed by the United States Marshals Service. The defendant is to be transported to such location by the most direct means and way possible.
- ☐ If the defendant fails to complete the program successfully, the defendant shall immediately be returned to custody.
- ☐ The defendant shall sign all waivers necessary to allow the probation officer to monitor the defendant's participation in the program.
- ☐ (p) participate in the following location monitoring program component(s) and abide by its requirements as the probation officer instructs. For each component, the defendant shall maintain a telephone at the defendant's place of residence without any "call forwarding", "Caller ID services", "call waiting", dial-up computer modems, 1-800 long distance call block, fax machine, voice over protocol (VOIP), burglar alarm or three-way calling service. The location monitoring technology that will be used (i.e., Radio Frequency (RF), GPS, Voice Recognition, Mobile Biometric Application) is to be selected by the probation officer.
 - ☐ The defendant shall submit to **curfew**, with location monitoring technology, and comply with its requirements as directed. During this time, the defendant is restricted to the defendant's residence between _____ and _____, or as directed by the probation officer.
 - ☐ The defendant shall submit to **home detention**, with location monitoring technology, and comply with its requirements as directed. During this time, the defendant is restricted to the defendant's residence at all times except for employment; education; religious services; medical, substance abuse or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the probation officer.
 - ☐ The defendant shall submit to **home incarceration**, with location monitoring technology, and comply with its requirements as directed. During this time, the defendant is restricted to the defendant's residence 24 hours a day except for medical necessities and court appearances, or other activities specifically approved by the Court.
 - ☐ The defendant shall submit to **standalone monitoring**. The defendant will have no residential curfew, home detention or home incarceration restrictions. However, the defendant must comply with the location or travel restrictions as imposed by the Court. Standalone monitoring should be used in conjunction with global positioning system (GPS) technology.

- ☐ The probation office is allowed up to three (3) business days to install the location monitoring technology.
- ☐ (q) pay the cost of location monitoring not to exceed the daily contractual rate. Payment for the location monitoring shall be made in accordance with the probation officer's direction.
- ☐ (r) notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
- ☐ (s) support all dependents including any dependent child, or any person the defendant has been court ordered to support.
- ☐ (t) submit to a search if the probation officer has a reasonable suspicion that the defendant has committed a crime or a violation of a condition of supervision. Such a search may be conducted by a U.S. Probation Officer, and such other law enforcement personnel as the probation officer may deem advisable, without a warrant or the consent of the defendant. Such search may be of any place where evidence of the above may reasonably be expected to be found, including the defendant's person, property, house, residence, vehicle, communications or data storage devices or media, or office. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition.
- ☐ (u) comply with the standard sex offender conditions and any optional conditions as ordered (see attachment).
- ☐ (v) FOR SRV CASES: In addition to the conditions imposed herein, the defendant shall comply with any conditions of supervision previously imposed by the District Court. To the extent there is a conflict between the conditions, the District Court's conditions of supervised release shall control.
- ☐ (w) Additional conditions of release:

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (i.e., in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.

Defendant's Signature
City and State

Directions to the United States Marshal

- ☐ The defendant is ORDERED released after processing.
- ☐ The defendant is ORDERED released after location monitoring is in place.
- ☐ The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions of release.